IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOS.: 23387 of 2001, 5028 OF 2003 AND 5041 OF 2003.

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W.P.NO.23387 OF 2001

Between:

Rajaiah s/o Venkati
Karimnagar District Co-op
Central Bank Limited.,Karimnagar.

..... PETITIONER

AND

1.A.P. Co-operative Tribunal at Hyderabad

rep. By its Chairman.

2.Primary Agricultural Coop. Credit Society Ltd.,

Shakella, rep. By its Paid Secretary

3.The Registrar of Cooperative Societies/Commissioner

for cooperation, Gruhakalpa, M.J.road, Hyderabad.

4.The Karimnagar District Cooperative Central Bank

Ltd., Karimnagar rep. By its General Manager

5.The Spl.Cadre Deputy Registrar (on special duty)

Karimnagar District Coop Central Bank Ltd., Karimnagar

6.The Karimnagar District Cooperative Marketing Society

Ltd., Karimnagar rep. By its Business Manager.

7.Deputy Registrar/Divisional Coop Officer, Karimnagar,

Karimnagar district.

8. The District Cooperative Officer, Karimnagar, Karimnagar

district.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly one in the nature of Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent dated 06-04-2001 in C.T.A.No.131/1996, confirming the order of the 7th respondent in his Rc .No.4964/93-B, dated 14-11-1994 and quash the same.

Counsel for the Petitioner: PARTY-IN-PERSON

Counsel for the Respondent No.1: G.P.FOR LABOUR

Counsel for the Respondent Nos.2 to 8:MR.P.M.GOPAL RAO

W. P. NO : 5028 of 2003

Between:

Rajaiah s/o Venkati
Karimnagar District Co-op
Central Bank Limited.,Karimnagar.

..... PETITIONER

AND

General Manager.,Karimnagar
District Co-op Central Bank., Karimnagar.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more in the nature of Writ of Certiorari calling for

records leading upto and inclusive of the impugned orders passed in B5/1128/2002-03 dated 27-7-2002 and consequential proceedings No.B5/1137/02-03 dated 31-7-2002 without framing any charges, without supplying relevant documents and without supplying the statements of the Employee/Witnesess, and without supplying enquiry report in pursuance of representation dated 24-7-2002 and Telegram dated 26-7-2002 and 31-7-2002 as illegal, arbitrary and consequently to suspend the operation of the impugned orders passed by the respondent dated 27-7-2002 and quash the same.

Counsel for the Petitioner: PARTY-IN-PERSON

Counsel for the Respondent: MR.P.M.GOPAL RAO

W. P. NO : 5041 of 2003

Between:

Rajaiah s/o Venkati
(Ex employee of Karimnagar District Coperative
Central Bank) Now residing at H.No.6-6-335,
Sahetnagar, Karimnagar.

..... PETITIONER

AND

General Manager.,Karimnagar
District Co-op Central Bank., Karimnagar.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus or any other direction to the respondent to release gratuity with interest and with cost due to the petitioner under I.D. Award dated 15-6-1997 within a week of final disposal of the writ petition.

Counsel for the Petitioner: PARTY-IN-PERSON

Counsel for the Respondent: MR.P.M.GOPAL RAO

The Court made the following :

COMMON ORDER

Since the petitioner is common and seeks to assail the orders at different stages involving common questions and connected with each other, hence they are heard together at their request. Heard Mr.Rajaiah, the petitioner himself as party in person.

In W.P.23387 of 2001, the petitioner seeks to assail the order, dated 06-04-200, in C.T.A.131 of 1996, passed by the 1st respondent herein which is Appellate authority dismissing the said appeal and confirming the orders of the 7th respondent dated 14-11-1994 which is an order of surcharge issued under Section 60 of the A.P. Co-operative Societies Act, 1964. In W.P. No.5028 of 2003, the petitioner seeks to assail the show cause notice issued on 27-07-2002 in respect of the proceedings initiated against him in regard to service and proposing to punish him and also final orders passed on 31-07-2002 whereunder the respondent bank had imposed the punishment of fine of Rs.1,000/- for the mis-conduct alleged against him and based upon the enquiry report, charges were framed therein. In W.P.5041 of 2003 the same petitioner seeks a direction by way of Writ of Mandamus for release of the gratuity with interest and costs which is due as per the award, dated 15-06-1997.

The brief facts which are necessary for disposal of these writ petitions are to the effect that the petitioner had initially joined service with the respondent bank on 10-08-1966 as Supervisor. Later on he was promoted as Assistant staff. However on the basis of certain allegations, he was suspended on 14-08-2001. An Enquiry Officer was appointed on 23-11-2001 and during the course of enquiry, the petitioner was permitted to lead evidence. Subsequently another Enquiry Officer was appointed on 15-06-2002. In the meanwhile, during the course of enquiry, the petitioner by way of an application requested to issue certain documents and also for cross-examining certain witnesses. In the meanwhile, the petitioner had retired on 31-07-2002 on reaching the age of superannuation. Therefore, show

cause notice was issued on 21-07-2002 stating as to why punishment of fine of Rs.1,000/- shall not be imposed and ultimately on 31-07-2002 the same punishment was confirmed after taking into consideration the explanation. In regard to the last writ petition, the petitioner requests for payment of gratuity which is entitled as per the said award.

Having heard the petitioner party in person and also Mr.P.M.Gopal Rao, learned counsel appearing on behalf of the respondent bank and the Government Pleader for Labour and on perusal of the material on record, the question which arise for consideration in these matters are as to whether firstly, the impugned proceedings both surcharge and also in respect of services are sustainable in law and on facts and secondly, as to whether the petitioner is entitled to gratuity as claimed?

As pointed out in the affidavit and also in various papers submitted on behalf of the petitioner referring to different proceedings, it shows that the case had check events at each stage. The petitioner came on several rounds by way of writ petitions and admittedly after referring the to the enquiry, it was found that surcharge orders was passed under Section 60 of the said Act holding that the petitioner is liable for the charges made against him. The said order was also confirmed in appeal after taking into consideration the various submissions made by both sides and also specific pleas raised on behalf of the petitioner. Simultaneously, the proceedings were initiated against the petitioner in respect of service and after issuing show cause notice and imposition of fine of Rs.1,000/- was awarded, since the petitioner in the meanwhile retired from service on attaining the age of superannuation by 31-07-2002. In view of these proceedings wherein the authorities concerned had taken into consideration various aspects, the allegations made against him having found against, which is purely that of fact, though several submissions have been made by going through the evidence which is nothing but a whole re-appreciation of evidence once again by this Court, which is not permissible in exercise of powers under Article 226 of the

Constitution of India. Except attacking the finding factually, no other legal and valid ground have been made to warrant interference of the same. In the circumstances, both the writ petitions in W.P.Nos.23387 of 2001 and 5028 of 2003 lack merits and they are liable for dismissal.

However, as regards to claim towards gratuity in the writ petition is concerned, admittedly the proceedings have been initiated against the petitioner and passing through various stages both with regard to surcharge and in respect of his service. Since the petitioner has retired from service normal punishment of Rs.1,000/- was imposed by the order, dated 31-07-2002. However, no reason was given as to why the petitioner is not entitled to gratuity. This aspect has not been given attention to, having regard to pendency of the various proceedings. In the circumstances, it calls for consideration o f his case for entitlement.

Accordingly, both the writ petitions in W.P.Nos.23387 of 2001 and 5028 of 2003 are dismissed and W.P.No.5041 of 2003 is allowed only to the extent directing the respondents to consider the petitioner's claim of gratuity and entitlement and determine the quantum within a period of two months from today after giving opportunity to the petitioner herein. No costs.

20-06-2005.

Hsd

That Rule Nisi has been made absolute as in W.P.No.5041 of 2003

Witness, the Hon'ble Sri Bilal Nazi, the acting Chief Justice on this the Twentieth day of June, 2005.

Asst. Registrar

To

1.The Chairman, A.P. Co-operative Tribunal at Hyderabad

2.The Paid Secretary, Primary Agricultural Coop.
Credit Society Ltd.,Shakella,

3.The Registrar of Cooperative Societies/Commissioner

for cooperation, Gruhakalpa, M.J.road, Hyderabad.

4.The General Manager, Karimnagar District Cooperative Central
Bank Ltd., Karimnagar

5.The Spl.Cadre Deputy Registrar (on special duty)

Karimnagar District Coop Central Bank Ltd., Karimnagar

6.The Businesss Manager, Karimnagar District Cooperative
Marketing Society Ltd., Karimnagar

7.Deputy Registrar/Divisional Coop Officer, Karimnagar,

Karimnagar district.

8. The District Cooperative Officer, Karimnagar, Karimnagar

district.

9.General Manager.,Karimnagar
District Co-op Central Bank., Karimnagar.

10. 2 C.Cs to G.P. for Labour, High Court buildings, Hyderabad

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11. 2 CD copies.